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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,519	02/28/2005	Kyoko Yokoi	TIP-05-1007	1423
35811	7590	06/15/2007		
IP GROUP OF DLA PIPER US LLP ONE LIBERTY PLACE 1650 MARKET ST, SUITE 4900 PHILADELPHIA, PA 19103			EXAMINER CHRISS, JENNIFER A	
			ART UNIT 1771	PAPER NUMBER
			MAIL DATE 06/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/522,519	Applicant(s) YOKOI ET AL.	
	Examiner Jennifer A. Chriss	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/16/07; 5/4/07</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed May 4, 2007, have been entered and have been carefully considered. Claims 1 – 4 are cancelled, claims 5 – 8 are added and claims 5 – 8 are pending. In view of the cancellation of claims 1 – 4, the Examiner has withdrawn the 35 USC 112, 2nd paragraph rejection and rejections over HIGUCHI et al. as detailed in paragraphs 2 – 7 of the Office Action dated January 16, 2007. The invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102/103

3. Claims 5 and 7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over HIGUCHI et al. (US 4,525,169).

HIGUCHI et al. discloses artificial grain leather comprises of ultra fine fibers which are not more than about 0.7 denier. (Col. 2, lines 16-18) The reference teaches needle-punching in the fibrous substrate. (Refer to Col. 3, lines 6-9) The reference teaches the use of polyethylene terephthalate or polybutylene terephthalate fibers. (Col. 3, lines 39-41) HIGUCHI et al. uses polyurethane and polyurethane urea resins in the coating layer. (Col. 5, lines 43-44) The coating layer can be colored-transparent

and is made of a coating composition in which resins are mixed with pigments and/or dyestuffs. (Col. 5, lines 59-61) In Example 3, HIGUCHI teach that the polyurethane is mixed with 0.02 parts of yellow pigment (column 12, lines 15 – 20).

Although HIGUCHI et al. does not explicitly teach the claimed properties of infrared reflectance, surface temperature and light fastness it is reasonable to presume that these properties are inherent to the artificial leather of HIGUCHI et al. Support for said presumption is found in the use of like materials (i.e. uses a fiber-entangled substrate made of ultra-fine polyester fibers and a polyurethane coating that includes similar dyes). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties of infrared reflectance, surface temperature and light fastness would obviously have been present one the HIGUCHI et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

4. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over HIGUCHI et al. as applied above, and further in view of PEDAIN et al. (US 3,867,350).

HIGUCHI et al. is silent to the use of a polycarbonate-based polyurethane.

PEDAIN et al. relates to polyurethane urea elastomers based on polycarbonate macrodiols. (Title; Abstract) The reference teaches the use of the resin for the production of coatings applied to substrates such as leather and artificial leather. (Col. 6, lines 20-31)

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the resin of HIGUCHI et al. and provide it with the polycarbonate based polyurethane of PEDAIN et al. with the motivation of using an elastomer that is less of a physiological hazard, that is more resistant to common solvents and require less emulsifiers and dispersion aid as disclosed by PEDAIN et al. (Abstract).

Response to Arguments

5. Applicant's arguments filed May 4, 2007 have been fully considered but they are not persuasive.

6. Applicant argues that HIGUCHI et al. fail to teach that the polyurethane contains at least one of yellow, red and blue pigments. The Examiner agrees that the disclosure in column 9 discloses that the fibers contain red and blue dyes but the polyurethane does not. However, in Example 3 as discussed in column 12, HIGUCHI et al. specifically teach that "the above substrate was coated as follows: the linear type non-yellowing polyurethane solution used in Example 2 was mixed in the following proportions with prepared pigments per 100 parts of polyurethane solid". In particular, HIGUCHI et al. teach the use of 0.02 parts of yellow pigment included in the polyurethane coating (column 12, lines 1 – 20). The Examiner submits that HIGUCHI et al. teach Applicant's claimed pigment configuration. The Examiner additionally submits that the properties would be inherent, because the Examiner has established that the claimed pigment configuration has been met by HIGUCHI et al. Additionally, for the

reasons discussed above, the rejection of PEDIAN with HIGUCHI et al. is considered to be valid.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Chriss whose telephone number is 571-272-7783. The examiner can normally be reached on Monday - Friday 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571 - 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jennifer Chriss
June 4, 2007



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